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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/057,589

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Prasad Nimmagadda

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09/28/2005

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EXAMINER

TRAN, THIEN D

ART UNIT

PAPER NUMBER

2665

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/057,589	<b>Applicant(s)</b> NIMMAGADDA, PRASAD	
	<b>Examiner</b> Thien D. Tran	<b>Art Unit</b> 2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 January 2002.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bremer et al** (U.S Patent No 6,061,392) in the view of **Dunn et al** (U.S Patent No 6,118,780).

Regarding claim 1, **Bremer** discloses an asymmetrical digital subscriber line (ADSL, col.6 lines 40-50) system used between a telecommunications network and a customer's premises, the ADSL system being available to provide voice service and data service to the customer's premises, one service as between the voice service or the data service being in use with respect to the customer's premises (figures 3), a method comprising the steps of:

causing the ADSL system to detect a request for the other service (detecting an off-hook, col.8 lines 5-10);

causing the ADSL system to provide the other service to the customer's premises.

**Bremer** does not disclose that an ADSL system provides a choice having a list of modes of an operation, detecting of a selected mode from the list and provides the other service to the customer's premises pursuant to the selected mode.

**Dunn** discloses that an ADSL system provides the list of modes of the operation detecting of a selected mode from the list and provides the other service to the customer's premises pursuant to the selected mode (abstract, fig.3c2, col.2 line 15 to line 20 and col.4 line 30 to line 60). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the feature of **Dunn's** system to **Bremer's** system to have a better performance of the system in enable users to modify their services without assistance of providing company operators. See Dunn, col.1 line 15 to line 20.

Regarding claims 4 and 5, **Bremer** and **Dunn** disclose the ADSL system that has a display of the list of available modes of operation (See Dunn, figure.3c2). However, Bremer and Dunn do not disclose the list containing a low power mode or full power mode. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a low power mode or full power mode in the list because it is a design of choices to include it in the system.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

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1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-27 are rejected under the judicially created doctrine of double patenting over claims 1-22 of U. S. Patent No. 6,426,961 B1, since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

Claim 1 is rejected over claim 1 of U. S. Patent No. 6,426,961 B1.

Claim 2 is rejected over claim 1 of U. S. Patent No. 6,426,961 B1.

Claim 3 is rejected over claim 3 of U. S. Patent No. 6,426,961 B1.

Claim 4 is rejected over claim 5 of U. S. Patent No. 6,426,961 B1.

Claim 6 is rejected over claim 7 of U. S. Patent No. 6,426,961 B1.

Claim 7 is rejected over claim 3 of U. S. Patent No. 6,426,961 B1.

Claim 8 is rejected over claim 3 of U. S. Patent No. 6,426,961 B1.

Claim 9 is rejected over claim 3 of U. S. Patent No. 6,426,961 B1.

Claim 10 is rejected over claim 4 of U. S. Patent No. 6,426,961 B1.

Claim 11 is rejected over claim 5 of U. S. Patent No. 6,426,961 B1.

Claim 12 is rejected over claim 7 of U. S. Patent No. 6,426,961 B1.

Claim 13 is rejected over claim 11 of U. S. Patent No. 6,426,961 B1.

Claim 14 is rejected over claim 12 of U. S. Patent No. 6,426,961 B1.

Claim 15 is rejected over claim 13 of U. S. Patent No. 6,426,961 B1.

Claim 16 is rejected over claim 11 of U. S. Patent No. 6,426,961 B1.

Claim 17 is rejected over claim 12 of U. S. Patent No. 6,426,961 B1.

Claim 18 is rejected over claim 11 of U. S. Patent No. 6,426,961 B1.

Claim 19 is rejected over claim 14 of U. S. Patent No. 6,426,961 B1.

Claim 20 is rejected over claim 15 of U. S. Patent No. 6,426,961 B1.

Claim 21 is rejected over claim 16 of U. S. Patent No. 6,426,961 B1.

Claim 22 is rejected over claim 17 of U. S. Patent No. 6,426,961 B1.

Claim 23 is rejected over claim 18 of U. S. Patent No. 6,426,961 B1.

Claim 24 is rejected over claim 19 of U. S. Patent No. 6,426,961 B1.

Claim 25 is rejected over claim 20 of U. S. Patent No. 6,426,961 B1.

Claim 26 is rejected over claim 21 of U. S. Patent No. 6,426,961 B1.

Claim 27 is rejected over claim 22 of U. S. Patent No. 6,426,961 B1.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thien Tran whose telephone number is (571) 272-3156. The examiner can normally be reached on Monday-Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (571) 272-3155. Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

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6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

Patent Examiner

Thien Tran

**DUCHO  
PRIMARY EXAMINER**

*Ducho*  
*9-27-05*